MONTANA LEGISLATIVE HISTORY

Chapter 22 19 83

Bill H 63 S _____ Original bill & history ____C

H. Committee on Business and Industry		S. Committee on Business and Industry	
Hearing Date(s) Jan 13	✓C	Hearing Date(s) Jan 24	✓C
_____	____C	Jan 28	✓C
_____	____C	_____	____C
_____	____C	_____	____C
Date Out Jan 13	✓C	Jan 28	✓C

Did this bill originate in an interim committee? ____Yes ____No

Committee _____ Report _____

STATUS SHEET

BUSINESS & INDUSTRY COMMITTEE

48 Legislature

Bill No.	Subject Matter	Date In	Sponsor	Hearing Date	Committee Action	Date Out
HB 14	An act revising & clarifying laws relating to business & labor	1-3-83	Vincent	1-5-83	do pass consent calendar	1-5-83
HB 18	An act requiring manufacturers to honor warranties & allowing other remedies	1-3-83	Harrington	1-19-83 9:00	do pass amended	1-20
HB 20	An act to revise the laws relating to Building & Loan Associations	1-3-83	Fabrega	1-6-83	do pass	1-6-83
HB 38	An act to authorize the Board of Plumbers to issue permits & inspect plumbing installations	1-3-83	Pavlovich	1-10-83 9:00 a.m.	do NOT pass	1-10-83
HB 63	An act removing provision making the elimination of usury limits under Mont. Retail Installment Sales	1-3-83	Fabrega	1-13-83 9:00 a.m.	do pass	1-13-83
HB 64	An act removing the provision making the elimination of usuary limits to regulated lenders temporary - plus amendments	1-3-83	Fabrega	1-13-83 9:00 a.m.	do pass	1-13-83

Form CS-32
1-79

HOUSE BUSINESS & INDUSTRY COMMITTEE

Chairman, Jerry Metcalf, called the Business & Industry Committee to order on January 13, 1983, at 9:00 a.m. in Room 420 of the Capitol Building, Helena, Montana. All members were present except Rep. Hal Harper and Rep. Bob Ellerd, who were excused.

HOUSE BILL 63

REP. JAY FABREGA, District 44, sponsor, stated that House Bill 63 and House Bill 64 were basically to amend the language that the Senate amended out of the 1981 bills. Its removal created problems to the retail merchants and charge card operations of the state. This bill is actually a reenactment of last session's bill. I see both of these bills as consumer issue bills. If you can't borrow it in Montana, you have no choice but to go out of state. If we don't pass this law, it will go back to what the law was before the 1981 session which was unsatisfactory.

JERRY RAUNIG, Montana Automobile Dealers Association, Helena, said two years ago they thought that removal of the limit on interest rates would really stimulate business, and that is exactly what has happened. Many banks who had gotten out of the car finance business are now back in the business and are competing with each other. For the first time in 23 years we are seeing loans being offered at interest rates below prime rate and even below the ceiling you removed in 1981. The 1981 bill has worked and we urge the Committee to give favorable consideration to this bill.

RALPH ANDERSON, Automobile Dealer in Helena, said it was heart warming to see legislation working exactly the way it was intended, and that is for competition to be stimulated.

TIM RYAN, Automobile Dealer from Great Falls, said the rates are coming down sometimes on a weekly basis. It means there is more money available to consumers to buy cars.

KEN HOOVESTOL, Montana Marine Trade Association, Great Falls, and BOB BUSHNELL, Montana Snow Mobile Association, said they were in favor of House Bill 63.

GEORGE ALLEN, Montana Retailers Association, said John Krutar, Professor of Economics, Carroll College, compiled a report on, among other things, "is your current finance charge an increase or decrease over that charged two years ago?" 25% increased; 6% decreased; 58% no change; 11% didn't know. This means 25% showed an increase over two years ago. The majority showed no change. This indicates the system does work and we need no controls. (Exhibit #1)

SAM NOEL, Bank of Montana, Great Falls, said they own their own bank cards. They have $300,000 outstanding on their cards and if this bill would not pass, they would have to move their bank card system outside the State of Montana, which would mean a loss of 20 employees.

IRENE RUSSELL, Russell's Timely, Great Falls, owns a small investment firm. She said if the usury had not been passed two years ago, she would be another business out of business.

ED SHEEHEY, JR., Montana Manufactured Housing, said he supported House Bill 63.

JOHN CADBY, Montana Bankers Association, stated that usury ceilings have significantly reduced the availability of credit and created hardships for those who were supposed to be protected. They have curtailed the amount of credit available to lower income borrowers, harming primarily those individuals whom the ceilings are intended to benefit. (Exhibit #2)

DAVID GROSS, Billings Chamber of Commerce, stated his organization supported House Bill 63.

SEN. CHRIS CHRISTIAENS, said he would like to go on record as supporting House Bill 63.

OPPONENTS: none

CHAIRMAN METCALF: As there are no opponents and these bills are so closely related, we will save questions until after testimony for House Bill 64.

HOUSE BILL 64

REP. FABREGA, District 44, sponsor, said HB 64 removes the ceiling that you can charge for the use of money in Montana to regulated lenders such as credit unions, savings and loans, etc. Going back to federal regulations would be ridiculous. It is sky high. In this bill I want to repeal the Sunset provision and make it a permanent statute of Montana as it is in most states in America.

JEFF KIRKLAND, Montana Credit Unions League, gave lengthy testimony in support of House Bill 64 for the 24 state chartered credit unions in Montana. He said most credit unions today have to offer higher-yielding accounts to retain members who want to earn more than just a passbook rate on their savings. One state-chartered credit union recently had to decrease its new car loan rate from 15% to 13% to compete in its community - a result of the 1981 law. (Exhibit #3)

JOHN CADBY, Montana Bankers Association, stated his association was in full support of HB 64.

OPPONENTS: none

QUESTIONS:

REP. FABREGA: Mr. Kirkland, you stated that 24 state chartered credit unions would be affected by this bill. The federal charter can disregard Montana's usury ceilings? Kirkland: Yes. REP. ELLISON: Do the feds currently have a usury ceiling? Kirkland: Yes - their current usury ceiling is 21%.

REP. BACHINI: Will the interest rate fluctuate from week to week? Mr. Noel: You will find that most banks are on variable rates. Some banks go quarterly but our bank goes weekly.

REP. METCALF: How has eliminating usury limits over the last two years affected the number of loans you gave and have you had an increase in your lending capacity? Mr. Kirkland:We have found the savings and loan income has increased by 16% over the last year. Rep. Metcalf: How about you bankers? Stan Hill: Over the past two years our loans have been relatively static. We have had about 10% growth and it has kept us in the business.

REP. METCALF: On the retail installment bill...when this bill was passed two years ago, the prime rate was 22% and it's now down to 11%. Retail installment loans seem to be holding at around 18 to 20 percent. Do any of you see retail installment loans coming down in the future if the prime rate continues down? Stan Hill: We may be in one of the more competitive rate environments in consumer lending and we have all looked at the ads that give 10 and 11 percent lending and in lieu of that we have had to decrease our rate. The highest rate we are charging is 17% and that's on unsecured loans.

EXECUTIVE SESSION: HOUSE BILL 63

REP. PAVLOVICH: Are the three senators back who put on the Sunset order? Rep. Metcalf: Sen Christiaens is going to carry this. Now that the Senate has seen the effectiveness over the last two years, there shouldn't be a problem.

REP. WALLIN: I have been in the car business since 1946. We are now involved in competition and competition really works. There were many that couldn't borrow money before this bill was passed. I back it 100%.

REP. BACHINI: How many states have eliminated the usury limits? REP. KITSELMAN: 38 have eliminated the usury limits.

REP. SCHULTZ moved that HOUSE BILL 63 DO PASS. The motion passed by unanimous vote.

REP. WALLIN moved that HOUSE BILL 64 DO PASS. The motion passed by unanimous vote.

The meeting adjourned at 10:20 a.m.

J. Metcalf
JERRY METCALF, CHAIRMAN

Linda Palmer
Linda Palmer, Secretary

STANDING COMMITTEE REPORT

January 13 19 83

MR. Speaker

We, your committee on Business & Industry

having had under consideration House Bill No. 63

A BILL FOR AN ACT ENTITLED: "AN ACT REMOVING THE PROVISION MAKING THE ELIMINATION OF USURY LIMITS UNDER THE MONTANA RETAIL INSTALLMENT SALES ACT TEMPORARY; PROVIDING ALTERNATIVE METHODS FOR COMPUTING THE FINANCE CHANGE; PROVIDING FOR A MINIMUM FINANCE CHARGE; AMENDING SECTION 5, CHAPTER 276, LAWS OF 1981, AND SECTION 31-1-241, MCA; REPEALING SECTION 2, CHAPTER 276, LAWS OF 1981; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

Respectfully report as follows: That House Bill No. 63

DO PASS

Chairman.

STATE PUB. CO.
Helena, Mont.

Exhibit #1

House Bill 63

Mr. Chairman and Members of the Committee:

My name is George Allen, registered lobbyist for the Montana Retail Association. I am here today in support of House Bill 63, which changes the way finance charges are computed.

During the last session the legislature lifted the ceiling on revolving credit, and it was also determined that finance charges must be computed on the adjusted month end balance.

The bill you have before you today gives the store three options:

1. Adjusted month end balance.
2. Average daily balance.
3. An average daily balance within a $10.00 radius.

Some companies that do business outside Montana have a real problem with our present law. As you know, we are in the computer age. Computers are programed to charge a certain percentage rate. For example, in the Western states Idaho, Utah, Colorado, Wyoming, North Dakota and South Dakota, the interest rates are all computed the same way. But when they send their statements to Montana they find they must reprogram their computer to accomodate our billing law. This creates more expense that eventually gets past on to the consumer.

Computing finance charges on adjusted month end balance is an unfair method. Some of the credit card people have raised their finance charge from 18% to 21% just to stay even with what was generated two years ago.

For example: The moneys received through finance charges figured at 18% on an average daily balance, are just about the same as the moneys received on the finance charge figured at 21% based on an adjusted month end balance. This appears to our customers that the finance charge percentage rate is higher in Montana than in the surrounding states. While it is true that the percentage rate is higher, it is not true that the actual moneys paid for the use of credit is higher. This is one example of well intended legislation that ends up confusing the customer.

For a businessman to extend credit he must consider three things:

1. His cost of borrowed money;
2. His cost of bad debts;
3. His cost of administration.

It is easy for some one to compare the New York prime rate of 11% or 12% or whatever, with the interest rates charged by a business of 18% or 21% and feel the business is making a great profit when they are not.

When you consider the three factors that must be included in establishing a rate you can see a company is lucky if it breaks even. Very few companies in the West can borrow at the New Yrok prime rate. We must pay "in house prime" at the local banks, which is almost always higher than the well publicized New York prime.

In the past two years Montana has had a deregulation of interest rates. We all wanted to know if the free interprize system works, would competition hold the line. To help us see the true picture of what has actually happened we wanted an independent, unbiased opinion. We hired John Krutar, Professor of Economics, Carroll College, to help us find some answers. His report is attached to my testimony.

One of the most important questions we were interested in (is your current finance charge an increase or decrease over that charged two years ago.)

Results show:

25% increased
6% decreased
58% no change
11% didn't know

As you can see, 25% indicated an increase over two years ago. The important thing to realize here is that the increase of all but two stores raised their interest rates from zero to 18%. Only two stores raised their interest rates above 18%. The stores that raised from zero to 18% showed that they charged no interest rates previously. The majority - 58% - showed no change. This indicates the system does work and we need no controls.

The survey also pointed out that most retailers would rather not extend credit at all, but find it necessary in order to survive. Moneys received on interest rates do not pay for expenses of hiring money, cover losses for bad credit, nor pay for administration.

I'd like to call your attention to the last couple of sentences on the survey that say, "there has never been a period of time in recent history when general credit conditions have provided a more legitimate reason to adjust interest rate charges upwards. Perhaps Montana retail merchants are uncomfortable with charging their customers higher interest rates and prefer instead to utilize restrictive credit policies to survive the times."

As can readily be seen, deregulation of interest rates and how billing procedures affect the retailer are important issues. Each individual retailor needs to be able to choose which of the three options, as proposed by House Bill 63, will best benefit his business. House Bill 63 is an important bill and the retailers of Montana support it.

I'd like to give you a few highlights of the survey done by Mr. Krutar. He contacted ten different types of businesses in eighteen towns around Montana, asking seven specific questions regarding credit. The survey pointed out that after all the information was pulled together, the retail community did not abuse their new-found freedom to set their own interest rates.

It is also important to point out to you that in order to continue offering credit to our customers, we need the flexibility that this bill gives us. We urge you to support House Bill 63.

Respectfully Submitted,

George E. Allen
Executive Vice-President
Montana Retail Association

1621 Broadway
Helena, MT 59601
December 23, 1982

Mr. George Allen
Executive Director
Montana Retailers Association
34 West Sixth Street
Helena, MT 59601

Dear Mr. Allen:

Enclosed is a summary of results from the telephone survey I recently conducted to ascertain credit policies of Montana retailers. I am also enclosing the support documents including the original list of merchants, the random numbers program, and the actual questionnaire form.

If I can be of further assistance, please do not hesitate to contact me.

Sincerely,

Jon A. Krutar
Economist

Attachments

4B63

ANALYSIS OF MONTANA RETAIL MERCHANT CREDIT POLICIES

December, 1982

HB 63

During mid-December Montana retail merchants were contacted by telephone and asked questions regarding their retail credit policies. Sixty names were randomly selected from a list of 153 provided by the Montana Retailers Association. The analysis which follows revolves around the answers provided by fifty of the merchants contacted. The remaining ten were either not available or not willing to answer questions regarding their credit policies.

Any sample of an entire population is, by definition, not a complete representation. However; the size, type, and geographical distribution of the sample, and the consistent responses received allow the analyst to draw several conclusions with a comfortable degree of confidence.

Tables I and II indicate the distribution of retailers by business classification and geographical location, respectively.

TABLE I

Business Type	Number
Appliance	2
Business Machines and Supplies	3
Clothing and Shoes	18
Drug	1
Furniture and Flooring	10
Hardware	7
Jewelry	3
Photo and Printing	2
Sports	3
Tire	1

TABLE II

Location	Number
Billings	6
Bozeman	3
Butte	5
Conrad	2
Culbertson	1
Dillon	1
Glasgow	1
Glendive	1
Great Falls	5
Havre	1
Helena	6
Kalispell	2
Lewistown	2
Malta	3
Miles City	2
Missoula	6
Shelby	1
Wolf Point	2

Seven separate questions were asked key personnel who were familiar with each firm's credit policies. Summary results for each question are provided, followed by interpretative comments.

Question One - Do you extend credit?

Yes--without qualification	72%
Yes - with qualification	24%
No	4%

Those answering "no" to this question were included in the sample since they had just recently eliminated credit to customers. The "qualified yes" respondents tended to confine their credit offerings to a low risk clientele such as established businesses, government agencies, or select consumers.

Question Two - Do you use a finance charge for your credit accounts?

Yes - without qualification	62%
Yes - with qualification	13%
No	25%

The percentages shown here are based on the forty-eight businesses who answered the first question affirmatively. The qualified responses indicated that finance charges are not universally applied to all credit customers or are only applied after a specified grace period of thirty to sixty days.

Question Three - What is the annual percentage rate of your finance charge?

Rate	Percentage of those using a finance charge
17%	3%
18%	69%
21%	3%
22%	3%
24%	5%
Don't know or would not reveal	17%

In order to properly interpret the results of this question, it must be remembered that the first two questions naturally reduced the number of responses, i.e., those indicating they did not extend credit or did not use a

finance charge are not included here. The data suggests that an annual interest rate of 18% is favored by over two-thirds of the sample group.

Question Four - Is your current finance charge an increase or a decrease over your rate two years ago?

Increase	25%
Decrease	6%
No Change	58%
Don't Know	11%

Again, the above percentages are with respect to only those presently using financial charges. It appears that very few retailers have adjusted the numerical value of their financial charges, particularly when one considers that over half of those indicating an increase had just recently implemented a charge. Only two respondents indicated an increase from their 18% rate charged two years ago.

Question Five - Has the number of your charge accounts changed during the past two years?

Increase	22%
Decrease	38%
No Change	36%
Don't Know	4%

The answers to this question, combined with those of the prior question, suggest a couple possible hypotheses.

JB 63

The higher rates charged could tend to reduce the number of credit accounts, or as credit conditions have worsened over the past two years, merchants may have relied more heavily on restricting credit availability than relying upon the automatic rationing effects of higher finance charges. Examining specific responses, the questionnaire reveals that only a third of those merchants who raised their charges noted that the amount of credit extended had decreased. It appears other factors are operating to reduce the number of charge accounts.

Question Six - Are you currently extending credit to new customers?

Yes - without qualification	44%
Yes - with qualification	34%
No	22%

The results of this question initially seem to be in conflict with those of the prior question. Merchants could be actively extending additional credit and discovering the number of charge accounts declining or staying the same only if business in general was in a slump and/or finance charges were escalating. As suggested, the data does not seem to support the latter. While the general economic slowdown could certainly explain part of the apparent disparity between the responses to the two questions, an additional possibility seems very likely. The degree to which those questioned qualified

their "yes" responses to this question is quite significant, particularly since such qualifications were totally unsolicited. The nature of the comments indicates retailers are making a sincere effort to carefully screen applicants in today's depressed economic climate. The number of qualified "yes" responses would undoubtedly have been even higher had the interviewer specifically solicited qualifications. The overall number of positive responses probably also reflects a merchant's tendency not to discourage potential business.

Question Seven - Do you have any additional comments about your retail credit in general?

Yes	56%
No	44%

The magnitude of "yes" responses to this open-ended question, particularly during the busy holiday season, suggests retail merchants are extremely concerned with customer credit. The nature of the comments is even more revealing. A consistent theme is that retailers are not particularly enthusiastic about being in the credit business, but perceive it as a necessary requisite for their businesses. Numerous comments also support an earlier hypothesis that the dismal state of the economy is forcing them to ration credit more carefully, typically relying on more stringent screening as opposed to adjusting finance charges. Those merchants who commented favorably upon their credit

approach stressed their cautious approach, while those expressing dissatisfaction focused their comments on problems of collections. Several mentioned they were relying more heavily on third party lenders such as banks, credit cards, and finance companies. In general, the merchants do not seem to view charging customers for extending credit as part of their revenue generating operations, but instead accept such a responsibility as a necessary part of surviving in the present business climate.

Summary

The random merchants contacted by telephone were asked to respond to seven questions regarding their retail credit policies. Some of the questions asked participants to contrast their present policies with those of two years ago in an attempt to determine if there was significant change in lending behavior as a result of legislation removing finance charge ceilings. Unfortunately, in this case, as in all cases of economic research, other factors change as well and a completely controlled experiment is not possible. The deterioration of the economy during this two-year period has obviously been a major factor in determining retail merchants' credit policies. An argument could be made that in an attempt to maintain sales, merchants have responded by actively extending new credit. An opposite possibility is that retailers, faced with

mounting uncollectibles as well as increased charges and stringent credit requirements from wholesalers, have retreated from aggressive retail credit offerings. Both the data and comments collected tend to support the latter thesis as the dominant response.

General national and state statistics as well as the data provided by the survey suggest that over the past two years, consumer demand for credit has been rising relative to merchants' desire to provide it. Given this scenario, retail merchants have had two options. They can either allow the marketplace to ration credit by increasing interest charges, or they can implement more selective credit practices. The data acquired through the telephone survey indicate Montana retailers have preferred to ration by restricting those eligible for credit. It is impossible to discern whether this reaction has been one of conducting business as usual with the old finance charge, or a result of a common perception about a "just" interest charge. Since Montana merchants had previously faced interest rate ceilings, it is possible they failed to respond to the opportunity to raise their charges because of ignorance of the new law or just because of habit. Whatever the reason, there has never been a period of time in recent history when general credit conditions have provided a more legitimate reason to adjust interest rate charges upwards. Perhaps Montana retail merchants are uncomfortable with charging their

11363

customers higher interest rates and prefer instead to utilize restrictive credit policies to survive the times.

48th LEGISLATIVE SESSION

COMMITTEE ON BUSINESS AND INDUSTRY

HOUSE BILL NO.	ENTERED COMM.	DATE CONSIDERED	OUT OF COMM.	DO PASS DATE	DO NOT PASS DATE	DO PASS AS AMEND. DATE	BE CONCURRED IN DATE	BE CONC. IN AS AMENDED DATE	BE NOT CONCURRED IN DATE
HB 18	1-26-83	3-2-83	3-2-83					3-2-83	
HB 20	1-14-83	1-17-83	1-17-83				1-17-83		
HB 63	1-18-83	1-24-83 1-28-83	1-28-83				1-28-83		
HB 64	1-18-83	1-24-83	1-24-83				1-24-83		
HB 100	3-1-83	3-22-83	3-22-83					3-22-83	
HB 106	1-26-83	2-7-83	2-7-83				2-7-83		
HB 132	1-28-83	2-2-83	2-2-83				2-2-83		
HB 134	1-28-83	2-2-83	2-2-83						2-2-83
HB 158	1-27-83	3-7-83	3-7-83					3-7-83	
RETURNED HB 158	3-7-83	3-8-83	3-8-83						3-8-83
HB 190	1-25-83	2-4-83 2-11-83	2-11-83				2-11-83		
HB 193	3-25-83	3-25-83	3-25-83				3-25-83		
HB 213	2-8-83	3-23-83 3-25-83	3-25-83				3-25-83		
HB 218	1-31-83	3-9-83	3-9-83				3-9-83		
HB 219	1-28-83	3-9-83	3-9-83					3-9-83	
HB 229	1-29-83	3-7-83	3-7-83				3-7-83		

Use a separate sheet for Senate, House Bills, and Resolutions.

After the questions from the Committee, the hearing on Senate Bill 11 was closed.

CONSIDERATION OF HOUSE BILL 63: Senator Chris Christiaens, presented this bill for Representative Fabrega who was unable to attend the meeting. He stated that House Bill 63 changes the way finance charges are computed. Last session they lifted the usury ceiling on revolving credit and this current bill would make that permanent and give stores the opt of using: 1) the adjusted month end balance, 2) the average daily balance and 3) the average daily balance within a $10.00 radius.

PROPONENTS TO HOUSE BILL 63: Gerald F. Raunig, Montana Auto Dealers Association stated they support House Bill 63. Two years ago they thought the removal of the ceiling would put competition back into business and that is exactly what it has done. For the first time in 23 years they are seeing car and truck loans below prime rate. He urged favorable consideration on House Bill 63.

Ralph Anderson, stated he was an auto dealer here in Helena. This bill was created to create competition and that is exactly what it has done. When they had the usury limits the down payments were very high and you had to have gold plated credit. Now the average Montanan is able to buy. He strongly urged passage of House Bill 63.

Samuel R. Noel, Executive Vice President, Bank of Montana System, Great Falls, stated they are the only bank in the State of Montana that owns their own credit card company. They have approximately 19,000 credit card holders holding both Master Charge and Visa. They have approximately $3,700,000 of outstanding credit on those cards. The average charge is approximately $42 and the average outstanding balance is approximately $365. He feels limiting interest rates in this area would be a negative factor for our banks and installment loans and would be a disadvantage in the credit program. He fully supports House Bill 63.

George E. Allen, Montana Retail Association, stated he was a registered lobbyist for the Retail Association. He testimony is attached to the minutes. (Exhibit No. 1)

Gretchen Tea, Montana Bankers Association, stated she supported House Bill 63.

Irene Russell, Great Falls, stated she supported House Bill 63.

Senator Goodover stated two years ago when they removed the usury limits he was a co-sponsor of the bill. He feels there have been no abuses of the bill and urged support from the Committee for House Bill 63.

There were no further proponents and no opponents.

QUESTIONS FROM THE COMMITTEE: Senator Boylan stated he feels that by taking the usury limits off it has allowed people to get back

into business and that is where the competition is coming from.

Senator Fuller asked if they were adding two additional ways to compute interest? Mr. Allen stated in his association they have a lot of small stores that don't have computers. The interest rate will continue to be done on the month end balance. With the computers entering the market, it is figured on an average daily balance. The reason is to make it satisfactory to the needs of the larger companies that have the computer equipment and for the small stores that will need to figure it themselves.

Senator Regan stated they may say it is 18% but the average daily balance is actually 24%.

After the questions from the Committee, the hearing on House Bill 63 was closed.

CONSIDERATION OF HOUSE BILL 64: Senator Chris Christiaens presented this bill to the committee also in the absence of Representative Fabrega. It would remove usury limits on regulated lenders.

PROPONENTS TO HOUSE BILL 64: Jeffrey M. Kirkland, Vice President of Government and Community Relations, Montana Credit Union League, stated he supported House Bill 64. His testimony is attached to the minutes. (Exhibit No. 2)

Samuel R. Noel, Executive Vice President, Bank of Montana System, stated competition forced them to lower their rates. They did this on every one of their 15 banks. He feels if they limit the rate that can be charged it will drive away the source of capital for the consumer in the state. He supports removing any usury ceiling in the State of Montana.

John Cadby, Executive Vice President, Montana Bankers Association. His testimony is attached to the minutes. (Exhibit No. 3)

Senator Goodover stated he just wanted to go on the record supporting House Bill 64.

There were no further proponents and no opponents.

QUESTIONS FROM THE COMMITTEE: Senator Fuller asked how many states carry the usury limits on their state statutes? Mr. Cadby stated the trend now is to eliminate all ceilings and let the money market place dictate the ceiling.

After the questions from the Committee, the hearing on House Bill 64 was closed.

CONSIDERATION OF SENATE BILL 156: Senator Pat Goodover, sponsor of the bill, stated this bill was introduced by request. The bill was passed in the 1979 session; however, it has never developed in that period of time. This law has been repealed in all other states and Montana is the only state left. The bill removes the requirement that products liability insurers report the number of judgments and

Senator Boylan asked how much is it going to cost to update all of the patrol cars? Colonel Landon stated they have updated 42 out of approximately 115 and they are in the process of converting from the low band to the high band. They have prepared in their budget plans to go on with this conversion.

Senator Boylan asked again how much do you think it will cost to update these vehicles? Senator Dover stated about $1.3 million to cover the whole state.

Larry Peterson stated the main thrust and intent of this bill is to get a single agency to develop and maintain a frequency allocation plan.

Senator Lee stated the FCC does not take into account that these cars are going to go in a 100-mile radius. Larry Peterson stated the overall plan would allow the State to preselect frequencies and allow distribution of the frequencies and should eliminate duplication of frequencies. It is critical to make good use of the frequencies.

Senator Goodover asked if there were other bills from the Board of Crime Control? Mr. Peterson stated there is a bill, not to implement this plan, but to convert to high bands. The bill coming would be about $4 1/2 million.

Senator Regan asked if this bill were to pass you could not mandate to have this frequency. Sheriff O'Reilly stated no.

After the questions from the Committee, the hearing was closed on Senate Bill 117.

ACTION ON SENATE BILL 11: Senator Regan made a motion that Staff Attorney, Greg Petesch, prepare the amendments and that the proposed amendments to Senate Bill 11 Be Adopted. Senator Lee seconded the motion. The Committee voted unanimously, by voice vote, that the proposed amendments to SENATE BILL 11 BE ADOPTED.

Senator Severson made a motion that Senate Bill 11 As Amended Do Pass. Senator Lee seconded the motion. The Committee voted 9-1, by voice vote, Senator Regan abstained, that SENATE BILL 11 AS AMENDED DO PASS.

ACTION ON SENATE BILL 117: Senator Regan made the motion that Staff Attorney, Greg Petesch, prepare the Statement of Intent on this bill and that Senate Bill 117 Do Pass. Senator Dover seconded the motion. The Committee voted unanimously, by voice vote, that SENATE BILL 117 DO PASS.

ACTION ON SENATE BILL 156: Senator Goodover made the motion that Senate Bill 156 Do Pass. Senator Dover seconded the motion. The Committee voted unanimously, by voice vote, that SENATE BILL 156 DO PASS. Senator Lee asked that Staff Attorney, Greg Petesch, prepare a Committee bill.

ACTION ON HOUSE BILL 63: Senator Regan asked that we hold House Bill 63 until Wednesday, January 26, 1983, at which time Executive

Montana Retail Association

Date: January 24, 1983

EXHIBIT NO. 1

House Bill 63

Mr. Chairman and Members of the Committee:

My name is George Allen, registered lobbyist for the Montana Retail Association. I am here today in support of House Bill 63, which changes the way finance charges are computed.

During the last session the legislature lifted the ceiling on revolving credit, and it was also determined that finance charges must be computed on the adjusted month end balance.

The bill you have before you today gives the store the same three options that they had three years ago:

1. Adjusted month end balance.
2. Average daily balance.
3. An average daily balance within a $10.00 radius.

Some companies that do business outside Montana have a real problem with our present law. As you know, we are in the computer age. Computers are programed to charge a certain percentage rate. For example, in the Western states Idaho, Utah, Colorado, Wyoming, North Dakota and South Dakota, the interest rates are all computed the same way. But when they send their statements to Montana they find they must reprogram their computer to accomodate our billing law. This creates more expense that eventually gets past on to the consumer.

Computing finance charges on adjusted month end balance is an unfair method. Some of the credit card people have raised their finance charge from 18% to to 21% just to stay even with what was generated two years ago.

For example: The moneys received through finance charges figured at 18% on an average daily balance, are just about the same as the moneys received on the finance charge figured at 21% based on an adjusted month end balance. This appears to our customers that we have raised our percentage rates. While it is true that the percentage rate is higher, it is not true that the actual moneys paid for the use of credit is higher. This is one example of well intended legislation that ends up confusing the customer.

For a businessman to extend credit he must consider three things:

1. His cost of borrowed money.
2. His cost of bad debts.
3. His cost of administration.

It is easy for someone to compare the New York prime rate of 11% or 12% or whatever it may be, with the interest rates charged by a business of 18% or 21% and feel the business is making a great profit when they are not.

When you consider the three factors that must be included in establishing a rate you can see a company is lucky if it breaks even. Very few companies in the West can borrow at the New York prime rate. We must pay "in house prime" at the local banks, which is almost always higher than the well publicized New York prime.

In the past two years Montana has had a deregulation of interest rates. We all wanted to know if the free interprize system works, would competition hold the line. To help us see the true picture of what has actually happened we wanted an independent, unbiased opinion. We hired John Krutar, Professor of Economics, Carroll College, to help us find some answers. His report is attached to my testimony. Attorneys and economists have one thing in common. They can write things and understand what they wrote, but sometimes the reader finds himself a little confused. Parts of this survey have the same problem. However, the facts that are presented are all factual and understandable.

One of the most important questions we were interested in (is your current finance charge an increase or decrease over that charged two years ago.)

Results show:
- 25% Increased
- 6% decreased
- 58% no change
- 11% didn't know

As you can see, 25% indicated an increase over two years ago. The important thing to realize here is that the increase of all but two stores raised their interest rates from zero to 18%. Only two stores raised their interest rates

above 18%. The stores that raised from zero to 18% showed that they charged no interest rates previously. The majority -58% - showed no change. This indicates the system does work and we need no controls.

The survey also pointed out that most retailers would rather not extend credit at all, but find it necessary in order to survive. Moneys received on interest rates may not pay for expenses of hiring money, cover losses for bad credit, and pay for administration.

I'd like to call your attention to the last couple of sentences on the survey that say, "there has never been a period of time in recent history when general credit conditions have provided a more legitimate reason to adjust interest rate charges upwards. Perhaps Montana retail merchants are uncomfortable with charging their customers higher interest rates and prefer instead to utilize restrictive credit policies to survive the times."

As can readily be seen, deregulation of interest rates and how billing procedures affect the retailer are important issues. Each individual retailer needs to be able to choose which of the three options, as proposed by House Bill 63, will best benefit his business. House Bill 63 is an important bill and the retailers of Montana support it.

I'd like to give you a few highlights of the survey done by Mr. Krutar. He contacted ten different types of businesses in eighteen cities around Montana, asking seven specific questions regarding credit. The survey pointed out that after all the information was pulled together, the retail community did not abuse their new-found freedom in setting their own interest rates.

It is also important to point out to you that in order to continue offering credit to our customers, we need the flexibility that this bill gives us. We urge you to support House Bill 63.

Respectfully Submitted,

George E. Allen
Executive Vice-President
Montana Retail Association

1621 Broadway
Helena, MT 59601
December 23, 1982

Mr. George Allen
Executive Director
Montana Retailers Association
34 West Sixth Street
Helena MT 59601

Dear Mr. Allen:

Enclosed is a summary of results from the telephone survey I recently conducted to ascertain credit policies of Montana retailers. I am also enclosing the support documents including the original list of merchants, the random numbers program, and the actual questionnaire form.

If I can be of further assistance, please do not hesitate to contact me.

Sincerely,

Jon A. Krutar
Economist

Attachments

EXECUTIVE SUMMARY

ANALYSIS OF MONTANA RETAIL MERCHANT CREDIT POLICIES

December, 1982

During mid-December, 1982, Montana retail merchants were called and asked seven questions regarding their retail credit policies. The summary results are provided for the fifty merchants who were randomly selected from a list of 153 names provided by the Montana Retailers Association.

I. Do you extend credit?

Yes	96%
No	4%

II. Do you use a finance charge for your credit accounts?

Yes	75%
No	25%

III. What is your annual percentage rate finance charge?

Rate	Percentage of Respondents
17%	3%
18%	6.3%
21%	3%
22%	3%
24%	5%
Do not know or would not reveal	17%

IV. Is your current finance charge an increase or decrease from two years ago?

Increase	25%
Decrease	6%
No change	58%
Don't know	11%

V. Has the number of your charge accounts changed during the past two years?

Increase	22%
Decrease	38%
No change	36%
Don't know	4%

VI. Are you currently extending credit to new customers?

Yes	78%
No	22%

VII. Do you have any additional comments about retail credit in general?

Yes	56%
No	44%

Summary of Findings

The seven questions were asked of randomly selected Montana retailers in order to ascertain present credit policies and to determine if there have been significant changes in lending behavior as a result of recent legisla-

tion which removed finance charge ceilings. Unfortunately, in this case, as in all cases of economic research, other factors change as well and a completely controlled experiment is impossible. More specifically, the general deterioration of the economy over the past two years has obviously affected retail merchants' credit policies. Montana merchants, like those across the nation, have been struggling for survival in an environment of mounting uncollectible retail accounts on one side of the balance sheet and more stringent and expensive wholesale credit requirements on the other side.

The results of the survey suggest that while merchants have reacted to the dismal economy and tight credit markets by scrutinizing their lending policies more carefully, they continue to accept the extension of credit as a necessary requisite for survival in the present business climate; and, do not view it as part of their revenue-generating operations.

Even in the best of times, retail merchants must allocate what they view as a reasonable amount of credit among those requesting it. Basically, there are two ways of doing so: ration by relying on traditional credit standards and ration by adjusting finance charges. As indicated by the respondents' answers to the questions as well as specific comments, Montana retailers have been using both techniques. Three-fourths of those extending credit are using finance charges. Only eleven

percent are charging more than 18% and over two-thirds of the sample favored the 18% rate.

There has never been a period of time in recent history when general credit conditions have provided a more legitimate reason to increase interest rate charges. Yet, only a quarter of those using finance charges have upwardly adjusted their rate. Over half of these have just recently implemented a change. The data and comments suggest that, in weathering the current recession, Montana retailers have relied more heavily on adjusting credit standards than upon changing their finance charges. It is impossible to discern whether this reaction has been one of conducting business as usual with the old finance charge or a reluctance to change because of a commonly-held perception of a "just" rate. Since Montana merchants had previously faced finance charge ceilings, it is possible they have failed to respond to the opportunity to alter their rates because of ignorance of the new law or out of sheer habit. Whatever the reason, the recent business and credit environment has certainly been conducive to more active rate adjustments.

current law. You have to take a loss. When interest rates were at 20% the highest you could charge was 15%. At the present time the bank is at 14% but the highest you can charge is 11 1/2%. You can't afford to put out that money and get less than the bank. If you are going to release the banks from the usury limits then we have to address the private lenders. In this bill he proposed that we move the interest rate to 20%. What happens when the prime rate goes back up to 20%? He has suggested that the Department of Commerce may adjust the percentage to a higher percent. Maybe we should say the published prime rate. The Department of Commerce may make this change only once every 120 days.

Representative Jay Fabrega, co-sponsor of Senate Bill 249, stated if these amendments were not in the bill he would have to oppose it. He feels there is a need for this bill.

George Bennett, Attorney, stated the amendments that Senator Towe suggested takes care of the problems that the bankers had. He feels there is still a problem with the bill. If you recall, these interest rates in the 1981 session, the amendments to them were given a two-year life. He thinks what he is doing by Section 1 is amending a suspended section in Representative Fabrega's bill. Instead of going to the codes they went to the session laws and amended the effective date of the session law instead of the code. You may want to either amend the permanent section or do something to your bill.

Senator Towe stated to his recollection one section was temporary and one was revived July 1, 1983. Staff Attorney Petesch stated the proposed amendment is a coordinated section to go with House Bill 64.

John Cadby, Montana Bankers Association, stated he supported the bill. This is really an economic capital bill which provides for risky loans. By passage of this bill you are actually helping the economic development of Montana.

QUESTIONS FROM THE COMMITTEE:

Senator Christiaens stated I think there is a need to identify the prime rate in that different banks get their prime rates from different places. Senator Towe stated we could insert "the 9th Federal Reserve District".

Senator Goodover stated say you borrow $20,000 at 14% and you put it out to your friend at 20% and 120 days later it dropped 4%, wouldn't you then refinance your loan? Senator Towe stated he thinks the Department of Commerce would adjust the rate. He wants to make sure that loan does not go at less than prime rate.

ACTION ON HOUSE BILL 63:

Senator Regan stated she would like to amend the bill because if they are going to charge 18% let it be 18%. The 18% figured on the adjusted month-end balance if you translated it figures to

23%. Senator Regan moved that the Committee strike lines 11 through 16, page 2. Senator Gage seconded the motion.

Senator Goodover stated he has copies of statements and all other states except for Montana do it this way. For Montana residents the finance charge is averaged. It is his understanding that this creates a real problem. Senator Regan stated the bigger stores and such have massive computers. We are not changing anything. All she wants to do is change the language and call it 18% provided they tell you the interest rate is charged at 23%.

Senator Christiaens spoke against the motion. If you go out and borrow your money at 20% and charge the customer 18% or 1 1/2% on the unpaid balance, at the end of the billing cycle you are losing the interest earned on that.

On Roll Call Vote, Senator Regan's motion failed by a vote of 5-3. This Roll Call Vote is attached to the minutes.

Senator Goodover made the motion that House Bill 63 Be Concurred In. Senator Lee seconded the motion. The Committee voted 7-1 that HOUSE BILL 63 BE CONCURRED IN.

ACTION ON SENATE BILL 174: Senator Fuller made the motion that the proposed amendment to Senate Bill 174 Be Adopted. Senator Christiaens seconded the motion. The committee voted unanimously, by voice vote, that the proposed amendments to SENATE BILL 174 BE ADOPTED.

Senator Goodover made a motion that Senate Bill 174 As Amended Do Pass. Senator Lee seconded the motion. The Committee voted unanimously, by voice vote, that SENATE BILL 174 AS AMENDED DO PASS.

ACTION ON SENATE BILL 84: Senator Lee asked that we pass Senate Bill 84 for the day. Senator Kolstad suggested that a subcommittee be formed to work with the House Subcommittee to come to a solution to this problem. Senator Severson thought this was reasonable so this could be settled. Senator Kolstad appointed Senator Goodover, Senator Lee, and Senator Regan to work on this as a committee of three.

ACTION ON SENATE BILL 249: Senator Regan asked that this bill be held until Monday for Executive Action. Senator Christiaens would like an amendment regarding the 9th Federal District. Staff Attorney Petesch will go ahead and take care of this amendment.

ACTION ON SENATE BILL 62: Staff Attorney Petesch explained the proposed amendments to the committee. The committee reinserted "for a member of the family". Mr. Tippy's proposal would strike subsection 4 from line 4 on page 8 through line 12 on page 5 in its entirety. What you are doing here is changing the law entirely in regard to these people. Many of these breweries set up an arrangement with a distributor whereby he will distribute their beer. You may have to grandfather some people in or you will be cutting them out now. There are no quotas on the distributorship

STANDING COMMITTEE REPORT

January 28 19 83

MR. PRESIDENT

We, your committee on BUSINESS AND INDUSTRY

having had under consideration HOUSE Bill No. 63

FABREGA (CHRISTIAENS)

Respectfully report as follows: That HOUSE Bill No. 63

BE CONCURRED IN

~~DO PASS~~

ALLEN C. KOLSTAD, Chairman.

STATE PUB. CO.
Helena, Mont.